

SECOND REGULAR SESSION

# SENATE BILL NO. 728

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR CROWELL.

Pre-filed December 1, 2005, and ordered printed.

TERRY L. SPIELER, Secretary.

3303S.01I

## AN ACT

To repeal section 197.315, RSMo, and to enact in lieu thereof one new section relating to certificate of need.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 197.315, RSMo, is repealed and one new section  
2 enacted in lieu thereof, to be known as section 197.315, to read as follows:

197.315. 1. Any person who proposes to develop or offer a new  
2 institutional health service within the state must obtain a certificate of need from  
3 the committee prior to the time such services are offered.

4 2. Only those new institutional health services which are found by the  
5 committee to be needed shall be granted a certificate of need. Only those new  
6 institutional health services which are granted certificates of need shall be  
7 offered or developed within the state. No expenditures for new institutional  
8 health services in excess of the applicable expenditure minimum shall be made  
9 by any person unless a certificate of need has been granted.

10 3. After October 1, 1980, no state agency charged by statute to license or  
11 certify health care facilities shall issue a license to or certify any such facility, or  
12 distinct part of such facility, that is developed without obtaining a certificate of  
13 need.

14 4. If any person proposes to develop any new institutional health care  
15 service without a certificate of need as required by sections 197.300 to 197.366,  
16 the committee shall notify the attorney general, and he shall apply for an  
17 injunction or other appropriate legal action in any court of this state against that  
18 person.

19 5. After October 1, 1980, no agency of state government may appropriate

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

20 or grant funds to or make payment of any funds to any person or health care  
21 facility which has not first obtained every certificate of need required pursuant  
22 to sections 197.300 to 197.366.

23 6. A certificate of need shall be issued only for the premises and persons  
24 named in the application and is not transferable except by consent of the  
25 committee.

26 7. Project cost increases, due to changes in the project application as  
27 approved or due to project change orders, exceeding the initial estimate by more  
28 than ten percent shall not be incurred without consent of the committee.

29 8. Periodic reports to the committee shall be required of any applicant  
30 who has been granted a certificate of need until the project has been  
31 completed. The committee may order the forfeiture of the certificate of need upon  
32 failure of the applicant to file any such report.

33 9. A certificate of need shall be subject to forfeiture for failure to incur a  
34 capital expenditure on any approved project within six months after the date of  
35 the order. The applicant may request an extension from the committee of not  
36 more than six additional months based upon substantial expenditure made.

37 10. Each application for a certificate of need must be accompanied by an  
38 application fee. The time of filing commences with the receipt of the application  
39 and the application fee. The application fee is one thousand dollars, or one-tenth  
40 of one percent of the total cost of the proposed project, whichever is [greater]  
41 less. All application fees shall be deposited in the state treasury. Because of the  
42 loss of federal funds, the general assembly will appropriate funds to the Missouri  
43 health facilities review committee.

44 11. In determining whether a certificate of need should be granted, no  
45 consideration shall be given to the facilities or equipment of any other health care  
46 facility located more than a fifteen-mile radius from the applying facility.

47 12. When a nursing facility shifts from a skilled to an intermediate level  
48 of nursing care, it may return to the higher level of care if it meets the licensure  
49 requirements, without obtaining a certificate of need.

50 13. In no event shall a certificate of need be denied because the applicant  
51 refuses to provide abortion services or information.

52 14. A certificate of need shall not be required for the transfer of ownership  
53 of an existing and operational health facility in its entirety.

54 15. A certificate of need may be granted to a facility for an expansion, an  
55 addition of services, a new institutional service, or for a new hospital facility

56 which provides for something less than that which was sought in the application.

57         16. The provisions of this section shall not apply to facilities operated by  
58 the state, and appropriation of funds to such facilities by the general assembly  
59 shall be deemed in compliance with this section, and such facilities shall be  
60 deemed to have received an appropriate certificate of need without payment of  
61 any fee or charge.

62         17. Notwithstanding other provisions of this section, a certificate of need  
63 may be issued after July 1, 1983, for an intermediate care facility operated  
64 exclusively for the mentally retarded.

65         18. To assure the safe, appropriate, and cost-effective transfer of new  
66 medical technology throughout the state, a certificate of need shall not be  
67 required for the purchase and operation of research equipment that is to be used  
68 in a clinical trial that has received written approval from a duly constituted  
69 institutional review board of an accredited school of medicine or osteopathy  
70 located in Missouri to establish its safety and efficacy and does not increase the  
71 bed complement of the institution in which the equipment is to be located. After  
72 the clinical trial has been completed, a certificate of need must be obtained for  
73 continued use in such facility.

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